

REMARKS

Claims 89 and 130-197 are now pending. Claims 154-197 are added and claims 89, 130, 131, 133-135, and 141 are amended herein, without any prejudice or disclaimer of any previously claimed subject matter. Applicants reserve the right to prosecute the cancelled subject matter in a divisional or continuation application.

Rejections under 35 U.S.C. §§ 102 and 103

The Examiner rejected claims 89, 130, 132, 135, 137, 139, 142, and 144-153, directed to methods for treating HCV, under 35 U.S.C. § 102(b) allegedly because International Patent Publication No. WO 94/01117 discloses 2'-deoxy-3'-hydroxy-4'-thio-nucleoside compounds, wherein the nucleobase can be imidazolopyridine, for the treatment of HCV.

Similarly, the Examiner rejected claims 89, 130, 132, 135, 137, 139, 142-153, directed to methods for treating HCV using a composition comprising a second anti-HCV agent or wherein the compound is formulated as a dosage unit, in tablet or capsule form, or wherein the compound is at least 90% or 95% by weight the β -D isomer, under 35 U.S.C. § 103 allegedly because International Patent Publication No. WO 94/01117 discloses 2'-deoxy-3'-hydroxy-4'-thio-nucleoside compounds, wherein the nucleobase can be imidazolopyridine, for the treatment of HCV, which can be used in combination with a second anti-HCV agent, such as ribavirin or interferon, formulated as a dosage unit, or the purity of the compound is at least 90% or 95%.

The Examiner is respectfully requested to reconsider this rejection in light of the currently amended claims, which are now directed to methods for the treatment of HCV using 2'-branched triazolopyridine, imidazolopyridine or pyrazolopyrimidine nucleosides. WO 94/01117 teaches only 2'-deoxy-3'-hydroxy-4'-thio-nucleoside compounds, i.e. nucleoside compounds with only hydrogen substituents in the 2'-position. Therefore, WO 94/01117 does not disclose any of the 2'-branched nucleosides of the present invention. Likewise, WO 94/01117 does not render the present claims obvious under 35 USC § 103. One of ordinary

skill in the art would not have been motivated, nor would have had a reasonable expectation of success to modify the 2'-deoxy-3'-hydroxy-4'-thio-nucleoside compound, with no substitution at the 2'-position, to a 2'-disubstituted compound of the present invention, for the treatment of hepatitis C virus infection. Therefore, WO 94/01117 does not anticipate nor render obvious the use of 2'-branched triazolopyridine, imidazolopyridine or pyrazolopyrimidine nucleosides for the treatment of hepatitis C virus infection as presently claimed.

The Examiner has acknowledged that claims 131, 133, 134, 136, 138, and 141 are directed to allowable subject matter as the use of nucleoside compounds possessing an alkyl group at the 2'-position for the treatment of hepatitis C virus is an unobvious modification of the prior art of record. In view of the currently presented claims, limited to methods for the treatment of hepatitis C virus infection in a host using β -D triazolopyridine, imidazolopyridine or pyrazolopyrimidine compounds that are di-substituted in the 2'-position with two non-hydrogen substituents, Applicants respectfully request that a Notice of Allowance be issued in this case.

The Examiner's attention is specifically directed to United States Patent Application No. 09/864,078, filed May 23, 2001, as well as United States Patent Application Nos. 10/602,691; 10/602,142 and 10/602,136, filed on June 20, 2003, related to methods to treat HCV comprising administering a 2'-branched nucleoside.

The Examiner's attention is also specifically directed to US Patent No. 6,812,219, filed May 26, 2001, and pending United States Patent Application Nos. 10/602,694; 10/602,135; 10/602,692; 10/602,693, filed on June 20, 2003, related to methods to treat flaviviruses and pestiviruses comprising administering a 2'-branched nucleoside.

Further, the Examiner's attention is specifically directed to pending United States Patent Application Nos. 10/609,298, filed on June 30, 2003, 10/608,907, filed on June 27, 2003, and 10/607,909, filed on June 27, 2003, related to methods to treat *Flaviviridae*, including HCV, comprising administering a modified 2' and/or 3'-branched nucleoside.

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Amdt. dated January 10, 2004
Reply to Office Action of September 10, 2004

Further, the Examiner's attention is specifically directed to pending United States Patent Application No. 10/845,976, filed May 14, 2004, related to methods to treat coronaviruses, togaviruses, and picornaviruses comprising administering a 2'-branched nucleoside.

In addition, the Examiner's attention is specifically directed to pending United States Patent Application Nos. 10/261,244 and 10/261,327, filed on September 30, 2002, related to methods to treat flaviviruses and pestiviruses, and HCV, respectively, comprising administering a 4'-branched nucleoside.

Applicants enclose a Petition for a One Month Extension of Time to reply, to and including, January 10, 2004. Applicants believe the fee for this Petition is \$120.00. In addition, Applicants believe the fee for the new claims presented in the amendment herein is \$2,710.00. Enclosed is a Patent Application Fee Determination Record. The Commissioner is authorized to charge \$120.00 associated with the Petition for One Month Extension of Time and \$2,710.00 associated with the excess claims fees, as well as any other deficiency to Deposit Account 11-0980.

Respectfully submitted,

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